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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,878	11/28/2001	Wolfgang Ludwig	22065	1877

535 7590 08/14/2003

THE FIRM OF KARL F ROSS  
5676 RIVERDALE AVENUE  
PO BOX 900  
RIVERDALE (BRONX), NY 10471-0900

EXAMINER

BECKER, DREW E

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 08/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/995,878

Applicant(s)

LUDWIG, WOLFGANG

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 7-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

1. This application repeats a substantial portion of prior Application No. 09/808,398, filed March 14, 2001, and adds and claims additional disclosure not presented in the prior application. Since this application names an inventor or inventors named in the prior application, it may constitute a continuation-in-part of the prior application. Should applicant desire to obtain the benefit of the filing date of the prior application, attention is directed to 35 U.S.C. 120 and 37 CFR 1.78. It is not clear whether the instant application, 09/995,878, is a divisional or C-I-P of parent application 09/808,398.

### ***Election/Restrictions***

2. Applicant's election with traverse of claims 1-6 in Paper No. 5 is acknowledged. The traversal is on the ground(s) that the apparatus of claims 7-11 cannot be used in a different process. This is not found persuasive because the apparatus of claims 7-11 can be used in another and materially different process, for instance roasting nuts or even nonfood materials.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

3. The application is objected to because of alterations which have not been initialed and/or dated as is required by 37 CFR 1.52(c). Specifically, the change on page 1, line 14 which adds "or just an addition". A properly executed oath or declaration

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which complies with 37 CFR 1.67(a) and identifies the application by application number and filing date is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 recites a "relatively low temperature". It is not clear what range of temperatures would be considered "relatively low".

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lankford [Pat. No. 3,718,485] in view of Mauer et al [Pat. No. 5,741,536].

Lankford teaches a method of processing meat by conducting preliminary steps such as freezing, cooking, and marinating of the meat (column 2, line 22), contacting the meat with a treating solution and agitating at an elevated temperature within a vessel (column

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6, lines 26-43), drying the meat (column 6, lines 44-50), cooling the meat (column 6, lines 51-53), and recovering the processed meat (column 6, lines 54-59). Lankford does not recite a cooling the meat in a second vessel, a further vessel prior to the first vessel, plural second vessels, or a conveyor. Mauer et al teach a method of processing meat by heating in a first vessel (Figure 1, #17), cooling in plural second vessels (Figure 1, #18-19), and conveyors (Figure 1, #12). It would have been obvious to one of ordinary skill in the art to incorporate the vessels and conveyors of Mauer et al into the invention of Lankford since both are directed to methods of processing meat, since Lankford already included cooling the meat (column 6, lines 51-53), since the conveyors of Mauer et al would have provided a continuous process as opposed to the batch process of Lankford and thus provided increased production rates, and since plural cooling vessels of Mauer et al provided a pre-cooling vessel and a freezing vessel which prevented freezer-burn (column 8, line 22). Although not specifically recited, it would have been obvious to one of ordinary skill in the art to cook the meat of Lankford in a further vessel since Lankford already taught cooking (column 2, line 22) and since meats were commonly cooked in vessels, such as ovens or pots.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 703-305-0300. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

A handwritten signature in dark ink, appearing to read "Drew Becker", with a long horizontal flourish extending to the right.

Drew E Becker  
Examiner  
Art Unit 1761

August 4, 2003